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STATE FOR NEA/ELA, EEB/TPP/MTA/IPC/BOGER  
USTR FOR GROVES/MOWREY  
COMMERCE FOR 4520/ITA/ANESA/WEIGLER AND USPTO

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TAGS: [KIPR](#) [ECON](#) [ETRD](#) [EG](#)  
SUBJECT: EGYPT MAKES INCREMENTAL PROGRESS ON IPR PROTECTION

REF: A. 2007 STATE 107629  
[1](#)B. 2007 STATE 158938  
[1](#)C. 2007 CAIRO 3297

Sensitive but unclassified, not for Internet distribution.

[1](#)1. (U) SUMMARY: The Government of Egypt continues to make progress on the concerns identified in the Special 301 action plan for Egypt (ref A); more remains to be done. This message responds to request in ref B to update the status of specific concerns, keyed to each item in the action plan.  
END SUMMARY.

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Enforcement issues  
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[1](#)2. (U) The Information Technology Industry Development Agency (ITIDA), which is part of the Ministry of Communications and Information Technology (MCIT), has sole responsibility for enforcement of copyright protection for business software, while the Ministry of Culture retains responsibility in the area of entertainment software for copyright protection of non-functional optical disk content such as music and movies (ref C).

[1](#)3. (SBU) In a draft 301 submission, Microsoft Egypt described its relations with Egyptian enforcement authorities as "fruitful and long-term," estimating that the GOE conducts 150 raids a month against software pirates. Microsoft reported that it assisted authorities in nine separate prosecutions involving thousands of suspected pirated software packages, including one case in which authorities confiscated products pirated from Microsoft and the American game manufacturer EA. In this case, an appeals court fined the convicted pirate 60,000 LE (USD 10,500), which Microsoft said was the highest fine levied by an Egyptian court in such a case. The appeals court overturned a lower court's prison sentence against the software pirate. Microsoft Egypt's IPR and Licensing Compliance Manager would like to see more frequent raids against retailers and distributors.

[1](#)4. (U) The Ministry of Culture has not resolved to Electronic Arts' (EA) satisfaction a long-standing court complaint by EA against an Egyptian company, Game Valley, which sells pirated EA products in Egypt. The company has expressed concerns about the attitude toward IPR enforcement in lower courts. Game Valley's license for the pirated products, which was issued by the Ministry of Culture, has expired. The Ministry of Culture has pledged to not renew it, but we suspect that the local company has recently petitioned the Ministry of Justice to review the situation. We are currently seeking more information from the Ministry

of Justice and will renew our engagement with the Ministry of Culture on the case.

¶5. (U) Book piracy remains widespread. We are aware of no actions by the Ministry of Higher Education to discourage use of illegal copies of publications. Microsoft estimates that software piracy in Egypt fell slightly from 64 percent of software in use in 2006 to 62.7 percent in 2007, compared to an average in the Middle East of 60 percent. Damages from piracy are increasing because of the growing IT market, Microsoft estimated.

¶6. (U) USAID is providing technical assistance to the Ministry of Justice and other ministries to strengthen IPR enforcement, and Egyptian judges and other officials have participated in IPR programs conducted by the USPTO. In late 2006, the Minister of Justice created an economic circuit that will be responsible for hearing commercial law cases, and 120 judges for the circuit received training on commercial-law topics including IPR. In addition, USAID has financed training for 148 appellate judges on IPR and other commercial-law issues.

¶7. (U) Microsoft Egypt's IPR and Licensing Compliance Manager characterized 2007 as a "good year regarding litigation before the courts," crediting judicial training and public-awareness seminars for favorable IPR judgments. Newspaper accounts and other anecdotal reports also indicate an increase in judgments against IPR infringers as a result of judicial training.

¶8. (U) The GOE is still considering whether to implement the WIPO Internet Treaties (WCT and WPPT).

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Pharmaceutical Protection Issues  
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¶9. (U) The GOE has not responded to recommendations that USTR submitted to Minister of Health Hatem el-Gabaly in November to clarify its data protection policy to be consistent with its TRIPS obligations. However, GOE officials have said previously that they believe their policy is already in accordance with their TRIPS obligations.

¶10. (U) Gabaly has conceded that a new streamlined 120-day marketing approval system for pharmaceuticals does not yet function as intended. Delays in the process continue to affect the term of data protection for new pharmaceutical products, which begins on the day of application.

¶11. (U) Although current procedures appear to leave the door open for the GOE to issue marketing approvals to unauthorized copies of pharmaceutical products, Gabaly has pledged repeatedly that the GOE will not do so, and Egypt has not issued marketing approvals of such pirated drugs during the last three years.

¶12. (U) The Patent Office has reported to us that it has eliminated the pending backlog of "mailbox" pharmaceutical patent applications filed since 1995, although the ultimate disposition of the applications remains unclear.

¶13. (U) COMMENT: We believe that our engagement with the GOE on this issue and the continuing efforts of private industry to promote IPR protection and awareness in Egypt has resulted in incremental improvement. We will evaluate this record and the work that lies ahead in our upcoming Special 301 submission. END COMMENT.  
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